

STATE OF HAWAII - DEPARTMENT OF TAXATION
SUBLEASE DEDUCTION WORKSHEET

(Do NOT file this worksheet with the Department of Taxation. Keep it for your records.)

Lessee's Name _____

Lessee's Hawaii Tax I.D. No. **W** _____ - ____

Lessor's Name _____

Lessor's Hawaii Tax I.D. No. **W** _____ - ____

Description of real property or space leased _____

COMPUTATION OF SUBLEASE DEDUCTION:

1. Amount of rent you paid to the lessor for the real property or space leased.
(If you sublease less than 100% of the real property or space that you leased
from the lessor, see Instructions.) _____
2. Allowable rate used in computing the deduction (see Instructions)..... _____
3. Multiply line 1 by line 2. This is your maximum allowable deduction _____
4. Amount of rent you received from the sublease of the same real property or space _____
5. **Sublease deduction.** Enter the smaller of line 3 or line 4 here. Include this amount
in column b on Form G-45 or on Form G-49, for Transient Accommodations Rentals
or Other Rentals, as applicable _____

GENERAL INSTRUCTIONS

Section 237-16.5, Hawaii Revised Statutes (HRS), allows a sublessor to reduce the amount of gross proceeds or gross income received under a written lease of real property by a specified percentage of the amount the sublessor pays to its lessor for the same real property in determining the gross proceeds or gross income subject to the general excise tax.

The requirements for the sublease deduction are as follows:

(1) The lessor must submit Form G-71, General Excise Sublease Deduction Certificate, to the lessee certifying that the lessor is licensed and taxable under the General Excise Tax Law;

(2) The lessee must be licensed and taxable under the General Excise Tax Law;

(3) The lessee must report the amount paid to the lessor, the amount of the sublease deduction, and the name and general excise Hawaii Tax I.D. Number of the lessor on Schedule GE (Form G-45/G-49) of the lessee's general excise tax return;

(4) The lessee's sublease deduction is limited to leases and subleases in writing and related to the same real property or space; and

(5) The lessee must compute the allocations with no allowances for changes during the specified term of the sublease, provided that this requirement shall not apply to a

lease with terms that vary in the amount of periodic rent due, including a percentage lease with fixed minimum rent, a percentage lease with no minimum rent, a combination percentage lease with fixed minimum rent or percentage leases with no minimum rent, whichever amount is higher, or a graduated or step-up lease.

For purposes of the sublease deduction:

Lease means the rental of real property under an instrument in writing by which one conveys real property for a specified term and for a specified consideration, and includes the written extension or renegotiation of a lease, and any holdover tenancy.

Lessee means one who holds real property under a lease, and includes a sublessee. A lessee or sublessee includes a sublessor who is subject to the general excise tax and qualifies for the deduction under section 237-16.5, HRS, provided real property or space is conveyed by a written sublease.

Lessor means one who conveys real property by a lease, and includes a sublessor. A lessor does not include a person who is not subject to the taxes imposed by chapter 237, HRS, or a person whose gross proceeds or gross income from leasing the real property or space is not taxable under chapter 237, HRS.

Sublessee means one who holds real property under a sublease.

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Sublessor means one who conveys real property by a written sublease, is subject to the general excise tax on the gross rental receipts derived from the subletting of such real property, and qualifies for the deduction under section 237-16.5, HRS.

For more information, see section 18-237-16.5, Hawaii Administrative Rules.

SPECIFIC INSTRUCTIONS

Note: Use this worksheet to calculate the amount of the sublease deduction to claim on your monthly, quarterly, semi-annual, or annual general excise tax return. Use a separate worksheet for each real property or space for which you are claiming the deduction.

Line 1 - Enter the amount of rent you paid to the lessor for the real property or space leased.

If you sublease less than 100% of the real property or space that you leased from the lessor, you must allocate the total amount of rent you paid for that real property or space based upon the percentage of the real property or space subleased, or the fair rental value of the real property or space subleased. The allocation may be based upon the percentage of the real property or space subleased when it is reasonable under the circumstances. If an allocation based upon the percentage of the real property or space subleased is not reasonable under the circumstances, you must allocate the total amount of rent you paid for the real property or space subleased based upon the fair rental value.

Example A: Lessor A leases real property X to lessee B for \$1,000 a year and lessee B subleases the same real property X to sublessee C for \$2,500 a year. Since lessee B subleases 100% of real property X to sublessee C, lessee B would enter \$1,000 on line 1.

Example B: Lessor A leases real property X to lessee B for \$1,000 a year and lessee B subleases 50% of real property X to sublessee C for \$2,500 a year. Assuming there are no significant differences between the portion of X subleased by B and the portion not being subleased which would significantly affect the value of the respective portions of X, an allocation based upon the percentage of area of X being subleased would be reasonable. In this case, lessee B would enter \$500 (\$1,000 rent paid to lessor A x 50%) on line 1.

Example C: Lessor A leases real property X to lessee B for \$1,000 a year. Real property X constitutes ground floor retail real property or space (which has a rental value of \$800) and upper floor office real property or space (which has a rental value of \$200) equal in size to the ground floor retail real property or space under lease. Lessee B subleases only the upper floor real property or space to sublessee C for \$2,500 a year. An allocation based upon the

percentage of area of X being subleased would not be a reasonable allocation method under these circumstances. An allocation based upon the fair rental value of X would be reasonable. In this case, lessee B would enter \$200 (the portion of the \$1,000 rent paid to lessor A allocable to the upper floor real property or space) on line 1.

Line 2 - Enter the allowable rate used in computing the deduction. The allowable rate to be used in computing the sublease deduction is as follows:

For gross proceeds or gross income paid in
the months of October, November, and
December, 1998.....

.....0.125

In calendar year 1999.....0.25

In calendar year 2000.....0.375

In calendar year 2001.....0.50

In calendar year 2002.....0.625

In calendar year 2003.....0.75

In calendar year 2004, and thereafter0.875

Line 3 - Multiply line 1 by line 2.

Line 4 - Enter the amount of rent you received from the sublease of the same real property or space.

Line 5 - Enter the smaller of line 3 or line 4. This is the amount of your sublease deduction to include in column b of Form G-45 or Form G-49 for Transient Accommodations Rentals or Other Rentals, as applicable. Report on Schedule GE (Form G-45/G-49) the amount of the sublease deduction, the amount paid to the lessor, and the name and general excise Hawaii Tax I.D. Number of the lessor.

WHERE TO GET INFORMATION

— More information is available on the Department's website at www.hawaii.gov/tax or you may contact the customer service staff of our Taxpayer Services Branch at:

Voice: 808-587-4242

1-800-222-3229 (Toll-Free)

Telephone for the Hearing Impaired:

808-587-1418

1-800-887-8974 (Toll-Free)

Fax: 808-587-1488

E-mail: Taxpayer.Services@hawaii.gov

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